

Encouraging Innovative Benefit Design to Lower Costs for Seniors Act

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Background:

In 2010, the Centers for Medicare and Medicaid Services (CMS) limited the number of Medicare Part D drug plans that an insurer could offer in a region to three.¹ This arbitrary limit restricts Part D plan sponsors from offering innovative benefit designs.

Those most harmed by the current plan limits are beneficiaries who take highly-rebated drugs in competitive therapeutic classes. That's because the rebates negotiated by pharmacy benefit managers (PBMs) for drugs like insulin aren't reflected at the pharmacy counter. A beneficiary's cost-sharing may be based on the list price while rebates are passed through to all plan enrollees in the form of lower premiums.² Simply put, beneficiaries taking drugs in competitive drug classes are subsidizing lower premiums for all seniors.

The Congressional Budget Office (CBO) and CMS Office of the Actuary (OACT) have both estimated that proposals to mandate that a certain percentage of rebates be "passed through" at the point-of-sale or eliminated entirely would diminish PBMs' leverage when trying to negotiate the lowest possible net price on the behalf of seniors. In turn, overall spending on pharmaceuticals would be higher, federal taxpayers would face billions in new costs, and premiums for the roughly 45 million seniors who rely on a Medicare Part D plan would rise.^{3,4}

Proposal:

A more sensible approach is to increase flexibility and incentives for Part D plan sponsors to deliver benefits that meaningfully reduce costs at the pharmacy counter for seniors who need it the most, while preserving low-cost premium options and the incentive for PBMs to negotiate low net prices on drugs.

Specifically, the *Encouraging Innovative Benefit Design to Lower Costs for Seniors Act* would:

1. Require CMS to issue new guidance increasing the maximum number of plan options to at least four plans in each region; and
2. Allow Part D sponsors to offer two additional plans provided that at least one of these two additional plans passes on at least 10 percent of aggregate rebates to the consumer.

¹ <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Downloads/Plan-benefit-Memo-for-CY-2011-04-16-10-FINALwo-disclaimer.pdf>

² <https://www.gao.gov/products/GAO-19-498>

³ <https://www.cbo.gov/system/files/2019-05/55151-SupplementalMaterial.pdf>

⁴ <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/Downloads/ProposedSafeHarborRegulationImpact.pdf>